

EDO Principal Correspondence Control

FROM: DUE: 11/18/04

EDO CONTROL: G20040748
DOC DT: 10/20/04
FINAL REPLY:

Jim Riccio, Greenpeace
Paul Gunter, Nuclear Info. & Res. Service
Navin Nayak, US Public Interest Res. Group
Wenonah Hauter, Public Citizen
Stephen Lerner, Service Empl. Intl. Union
David Lochbaum, Union of Concerned Scientists

TO:

Zimmerman, NSIR

FOR SIGNATURE OF :

** GRN **

CRC NO: 04-0680

Zimmerman, NSIR

DESC:

ROUTING:

Wackenhut - Force-on-Force

Reyes
Virgilio
Kane
Merschhoff
Norry
Dean
Burns/Cyr
Brenner, OPA
Outlaw, DOC

DATE: 10/29/04

ASSIGNED TO:

CONTACT:

NSIR

Zimmerman

SPECIAL INSTRUCTIONS OR REMARKS:

Add EDO and the Commission on for concurrence. EDO
and Commission to review prior to dispatch.

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Oct 29, 2004 08:43

PAPER NUMBER: LTR-04-0680 LOGGING DATE: 10/28/2004
ACTION OFFICE: EDO

AUTHOR: Jim Riccio
AFFILIATION: PUB CIT
ADDRESSEE: Roy Zimmerman
SUBJECT: Urges the NRC to take action to address the inherent conflict

ACTION: Direct Reply
DISTRIBUTION: RF

LETTER DATE: 10/20/2004

ACKNOWLEDGED No
SPECIAL HANDLING: Made publicly available in ADAMS via SECY/EDO/DPC

NOTES: Commission to review response prior to dispatch

FILE LOCATION: ADAMS

DATE DUE: 11/12/2004 DATE SIGNED:
22

October 20, 2004

Mr. Roy P. Zimmerman, Director
Office of Nuclear Security and Incident Response
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-001

Dear Mr. Zimmerman:

We are writing to urge the Nuclear Regulatory Commission (NRC) to take action to address the inherent conflict of interest in allowing Wackenhut Corporation both to guard nuclear power plants and to test these guards in force-on-force tests. NRC currently has the authority to address this issue before the new tests go into effect on October 29.

The Nuclear Energy Institute (NEI) maintains in its September 10, 2004, letter to you that the conflict-of-interest charge is "unfounded," because the NRC is ultimately responsible for monitoring the force-on-force exercises and assessing performance. However, this argument is not valid. As you know, the exercises are fast-paced with durations measured in seconds or very few minutes. Frequently, the difference between success and failure comes down to whether an attacker or a security guard made a wrong turn or fell down during a foot race. It would be easy for the mock attackers to "throw" an exercise and let the security guards win – without the NRC observers knowing what happened. For example, an attacker could slow his pace by just a step or two or fail to promptly take cover when encountering a security guard, which would allow the guards to reach their protected enclosures and thus "win" the test.

The incentives for the Wackenhut adversary team to back off when facing Wackenhut defenders are real and large. A plant owner could easily choose to resolve security problems identified during the force-on-force tests by replacing its Wackenhut guard force with either its own employees or with guards from one of Wackenhut's competitors. Thus, it is in the best interests of Wackenhut for its adversary team not to demonstrate weaknesses in Wackenhut security provided at nuclear power plants.

Consequently, nuclear power plants may be more vulnerable to attack at a time when, according to the Department of Homeland Security, this nation is at an elevated threat level with "significant risk of terrorist attacks."

NEI puts forward in its September 10, 2004, letter to you that the conflict of interest is mitigated by requiring the Vice President of Special Operations, the adversary team project manager within Wackenhut, to report to the Wackenhut CEO rather than to the President of Wackenhut Nuclear Services. This argument is simply not persuasive. The company's interest in retaining its contracts to guard nuclear power plants is just as evident in the parent company as in Wackenhut Nuclear Services.

NRC has the regulatory authority to address this problem immediately. According to Title 48 of the Code of Federal Regulations (Subpart 2009.570-3), NRC must determine

whether an organizational conflict of interest exists before contracting with a company. Passing off the responsibility for hiring of the contractor to NEI does not relieve NRC of this responsibility.

If the NRC is to provide any assurance to the American public that the nuclear plants in their backyards are secure, then NRC must take immediate action to prevent Wackenhut from participating in both sides of the force-on-force tests. In August, NRC announced that the results of its security inspections and tests would no longer be made publicly available. Denied access to information on the outcomes from NRC's security oversight efforts, the American public is only left with confidence in the process itself. This conflict of interest undermines, if not totally eliminates, public confidence in the security inspections process and simply cannot be allowed.

The objective of the adversary team is to probe for seams in the intrusion detection systems, physical barriers, and armed responders that form the security blanket. As such, force-on-force tests are the best way to determine if a nuclear plant is properly protected against a ground assault, but only if the mock attackers are qualified and apply their maximum effort. We urge the NRC to take immediate action to eliminate this conflict-of-interest situation.

Sincerely,

Jim Riccio
Nuclear Campaigner
Greenpeace
702 H Street NW, Suite 300
Washington, DC 20001

Wenonah Hauter
Director, Energy Program
Public Citizen
215 Pennsylvania Avenue SE
Washington, DC 20003

Paul Gunter
Director, Reactor Watchdog Project
Nuclear Information and Resource
Service
1424 16th Street NW, Suite 404
Washington, DC 20036

Stephen Lerner
Director, Building Services Division
Service Employees International Union
1313 L Street NW
Washington, DC 20005

Navin Nayak
Environmental Advocate
U.S. Public Interest Research Group
218 D Street, SE
Washington, DC 20003

David Lochbaum
Nuclear Safety Engineer
Union of Concerned Scientists
1707 H Street NW, Suite 600
Washington DC 20006

Cc: Dr. Nils J. Diaz, Chairman, Nuclear Regulatory Commission
Stephen Floyd, Nuclear Energy Institute